

# S P E E C H

OF

## HON. L. D. M. SWEAT,

OF MAINE,

DELIVERED IN THE HOUSE OF REPRESENTATIVES,  
FIRST SESSION, THIRTY-EIGHTH CONGRESS,  
SATURDAY, APRIL 2, 1864.

The House having resumed the consideration of the Bill to declare certain roads military roads and post roads, and to regulate commerce—

Mr. SWEAT said :

MR. SPEAKER : Sincerely believing that the principles involved in the bill now under consideration are unwarranted by the Constitution and the laws of the land, as well as by the facts of the case, I feel impelled by a sense of duty, from my earnest convictions upon the subject, not to let this opportunity pass without at least making a few suggestions in vindication of the vote which I shall give. In times of war, excitement, and alarm, we are apt to be absorbed in the present and blinded to the future, and this is one of the great dangers we are now laboring under as a people. As one of the most distinguished and ablest of our public men once said upon a scheme of legislation similar to this, "Great and sudden changes in opinion on important political subjects are the usual forerunners of revolutions in States." This is emphatically so when the force of Government rests on common sentiment. The fear is that we, in our legislative action, may be too much influenced by the excitement produced by the distracted condition of the country to consider calmly any question of a political nature which may come before us. The magnitude and importance of the principles involved in this proposed species of legislation demand the earnest, thorough examination and consideration of this House.

Gentlemen who have spoken on this side of the House have seen fit to appeal to the magnanimity and generosity of the other side in behalf of the rights of New Jersey, her Legislature, courts, and citizens. Sir, I have no such appeal to make. I address myself to the facts of this case, and to the Constitution and the laws as applicable to them. Magnanimity and generosity are not demanded by the Camden and Amboy Railroad Company of me or of any other member of this House. My first impression of the unsoundness of this proposition now before us was gained in reading the report made by the chairman of the committee to whom

this matter was referred. My attention had not been called to it except cursorily and incidentally until I took up the report and read it, and I must say I am astonished to find that a question involving such unprecedented and unwarranted demands for congressional interference has found a foothold in this House; and while I have the utmost respect and regard for that committee, collectively and individually, I must say I think they have made a report which cannot be sustained by the facts in the case, nor by the law as applicable to those facts.

The gentleman from Ohio [Mr. GARFIELD] said to us yesterday: "Woe be to any corporation or State that raises its hands against the power and majesty of this great Government." Precisely here is the issue. I deny that New Jersey or the corporation interested in this question, existing under the laws of that State, have raised their hands against the Government, and I would caution the gentleman against the danger of acting upon a supposed and unfounded state of facts, and against the danger of being led, in these days of extreme legislation, to ignore the rights of the people and the just and true distinction between the rights and powers of the States and those of the Congress of the United States.

A disposition to make this a party question seems to have manifested itself in some quarters, but I deny that there is any party consideration that ought to influence this House in the disposition of the subject now before it, and I think that he who permits himself to be governed by any such motives can neither be an honest man nor a safe legislator. I have no feeling with reference to it except to see the right prevail.

Previous to 1830, when the first charter was granted to the Camden and Amboy Railroad Company, it is well known that the whole country had settled down upon the idea that Congress had no power to interfere with the railroad system in the States. The question had been fully considered under all the Administrations from that of Jefferson to Jackson, and the public mind acquiesced in the doctrine that the power now claimed in the bill before us did not exist in Congress.

To show that such was the understanding of the previous Congresses I need only to call the attention of the House to the fact that in 1806 by Jefferson, in 1817 by Madison, in 1822 by Monroe, and in 1828 by Jackson, specific recommendations were made to Congress to have the Constitution so amended that Congress should have the power to legislate on subjects similar to the one before us. But their recommendations were not acted upon, and the Constitution was not amended. Such being the state of public sentiment at that time on the question of internal improvements, we find that the State of New Jersey, in the year 1830, granted a charter to the Camden and Amboy Railroad Company, and that in 1832, after the union of this company and the canal companies, the Legislature passed a supplementary act, giving to this railroad company exclusive franchises, of which I will more particu-

larly speak hereafter. They did this under the sanction of the fixed sentiment of the country, produced by the action of previous Congresses, and by the clearly expressed opinions of Jefferson, Monroe, Madison, and Jackson.

Now, it may be sir, that any allusion to those distinguished men, or to the jurists of the country who have commented on this supposed power of Congress, will pass by as the idle wind. But, sir, I do not believe the time has yet quite come which John Randolph once predicted would come, when a member, who should rise upon this floor and quote the Constitution of the United States, would be called to order. I hope that hour has not yet come; but if I can judge anything from the indications of the times, we are fast drifting toward it. What are the facts? By section two of the act of March, 1832, of the Legislature of New Jersey, it was enacted:

"That it shall not be lawful at any time during the said railroad charter to construct any other railroad or railroads in this State without the consent of said companies, which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroad to which this supplement is relative."

This shows in clear and unmistakeable language the meaning of the Legislature; and by a supplementary act, passed in 1854, this construction was most deliberately confirmed.

"By the preamble of the act of 1854 it is recited that by reason of existing contracts between the State and the companies as set forth in their acts of incorporation, and other acts in relation to the said companies, they are possessed of certain exclusive privileges which prevent the construction, except by their consent, of any other railroad or railroads in this State which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroads of the said companies. And by the first section of the act it is enacted that it shall not be lawful before the 1st day of January, 1869, to construct any other railroad or railroads in this State, without the consent of the said joint companies, which shall be used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business between the said cities with the railroads of the said joint companies, or that may in any manner be used or intended to be used for the purpose of defeating the true intent of the act passed March 2, 1832, or of this act, which intent and meaning are hereby declared to be fully and effectually to protect, until the 1st day of January, 1869, the business of the said joint companies from railroad competition between the cities of New York and Philadelphia."

And as the chancellor of New Jersey well said:

"It is difficult to conceive of a more express engagement on the part of the State, or of a clearer recognition of the exclusive rights of the companies than is contained in these statutes. Whatever doubts may be entertained as to the construction of the contract, there can be none as to the fact of making it."

At the time this company was incorporated nobody raised a question as to the true intent and meaning of the Legislature. Under this charter, Mr. Speaker, I contend that the State of New Jersey made a solemn contract with the Camden and Amboy Railroad Company, and that both the Legislature and the company were bound thereby. If there is any gentleman upon this floor who is disposed to controvert this position, I would thank him to put any questions to me touching that point. I repeat that as early as 1832 the Legislature of New Jersey made a solemn and deliberate contract with the Camden and Amboy Railroad Company, and confirmed it in 1854, giving them certain exclusive

privileges. It is in the usual form of a contract. It is that species of contract which is made by every State in the Union every year. No one then denied that the State of New Jersey had a right to make this contract. It was so understood by the Legislature. It was so understood by the company. It has been so understood both by the Legislature and the company from 1832 down to the present time, and it has been so understood by the people throughout the country who knew anything at all of the subject of New Jersey's legislation. Does any gentleman on this floor question the right of the State of New Jersey to make this contract? She had a right to make contracts before she entered into the compact forming the Union. I am not aware that she ceded away that right to Congress. If so, when, where, and how was it done?

Some gentlemen, however, complain that the State of New Jersey had no right to grant an *exclusive charter*. I think that is the position taken by the learned gentlemen from the Syracuse district of New York, [Mr. DAVIS,] on the ground that it takes away the right of subsequent Legislatures to pass any adverse measure. Now, on this question of whether one Legislature has a right to pass a bill in derogation of the rights of any subsequent Legislature, I have simply this to say: I have never known the question to be raised until it was by the gentleman from New York, [Mr. DAVIS,] "It is an inherent right of sovereignty." State Legislatures are every year giving away that which they cannot recall. When a State makes a donation, it passes property from its hands, and the fee vests in the grantee; and you might as well say that the Legislature which does that this year is derogating from the power of a subsequent Legislature. Whenever a Legislature permits a railroad, for instance, to cross or occupy land where the tide ebbs and flows, or in any way alienates the public domain, it gives away what it has exclusive jurisdiction over; but still it is a grant which it cannot revoke; and it has not been, for that reason, considered as really in derogation of the rights of any subsequent Legislature. The plain and simple answer is this: while the State Legislatures have the right to make contracts and to grant charters with exclusive privileges, they have not the right to break such contracts. And why? Because the Constitution of the United States, which I am to-day, and always have been, ready to stand by, says in so many words that no law shall be made impairing the obligation of contracts. As a distinguished jurist has said on this subject, it is the Constitution of the United States, and not Legislative action which derogates from the power of any subsequent Legislature. This is the limitation. It is the Constitution which prevents a subsequent Legislature from revoking an exclusive franchise granted by a preceding Legislature.

But while I say this, I do not contend that the Legislature of any State can absolve itself from its duty and obligation to provide for the public use necessary highways and means of communica-



tion from place to place, and if public necessity requires it, the Legislature of New Jersey may take away the franchises of the Camden and Amboy Railroad; but this can only be done by the exercise of the right of *eminent domain*, which is an inherent right of the *States*, and not of the *General Government*. But if franchises are taken away under the exercise of this power and condemned for public use, it must be upon the same conditions as are prescribed for the taking away any other species of private property, to wit, the condition of making a just and reasonable compensation therefor. But the facts in this case do not justify even the Legislature of New Jersey (which alone has the power) in taking away the franchises of this company.

In regard to the *policy* of granting exclusive franchises, I might agree with the gentlemen who have spoken on the other side, were the question presented anew to-day, for the considerations which would govern me now are very different from what they were in 1832, when the charter was granted in this case. It is not sound and wise policy in these advanced days of railroads and other avenues of communication, which are no longer doubtful experiments, to grant exclusive privileges to any railroad company. But you must bear in mind the time when this road was chartered. I think the Legislature was wise in granting exclusive privileges to this company as early as 1832, as an inducement to invest private means in what was then considered a hazardous undertaking. I think the Massachusetts Legislature was wise in granting an exclusive charter to the Boston and Lowell Company. In 1830, when the railroad system had scarcely commenced in this country, which has since enriched it more than all other influences in the way of internal improvements, the Legislature of Massachusetts thought fit to grant a charter to the Boston and Lowell Railroad Company with the exclusive right of transporting freight and passengers from Boston to Lowell. In a suit brought by that company against other companies, which had infringed on their rights, the courts of Massachusetts sustained the right of the Legislature to grant these exclusive privileges, and an injunction was issued restraining the defendant corporations from using their roads or any sections of them, in such manner as to form a continuous line of conveyance of persons or property between the points specified in the charter of the Boston and Lowell Railroad Company. 2 Gray 1.

How stands the case, then? We have a contract made between the Legislature of New Jersey and the Camden and Amboy Railroad Company. No one denies the right of the Legislature to make that contract. Every one admits that the contract cannot now be broken, because the Constitution comes in and forbids it. On these points there has been no denial from 1830 down to the present session of this Congress.

Under this state of facts, and with the understanding which prevailed throughout the country in regard to such questions, we find a charter given in 1852 to the Camden and Atlantic Company,

one of the petitioners for the bill before us. The road of this company turns at a right angle to the railroad to New York, and extends from Philadelphia down to the Atlantic shore. This charter was granted in 1852, some twenty-two years after the charter was given to the Camden and Amboy Railroad Company under which it has always acted. It was intended for purely local purposes, and its results have been the growth of a small village between Camden and Atlantic City, and the establishment of the latter as a watering place.

In 1854 a charter was granted to the Raritan and Delaware Bay Railroad Company (the other petitioner for legislation) to build a road from some point on the Raritan bay east of Keyport, in the county of Monmouth, to the village of Toms River, in the county of Ocean, and thence through the counties of Ocean and Burlington to May's Landing, in the county of Atlantic, thence through the counties of Atlantic and Cape May to Cape Island, on the Atlantic ocean.

This proposed route, under their charter, would traverse the Eastern Shore of New Jersey, from Raritan bay to Cape Island, a distance of one hundred and twenty miles, more or less, and was intended for local traffic and the development of the Eastern Shore portion of that State. This road, if continued through to Cape Island, according to the terms of their charter, would cross the Camden and Atlantic nearly at right angles, about forty miles from Philadelphia. It was built in this direction some twenty miles; and there their work stopped till 1861, I believe, when those interested in it again commenced extending the road; but instead of continuing it according to the line prescribed under the charter, they deviated westerly, and were in the process of making a connection, by the way of Atsion, with the Camden and Atlantic road at Jackson, some twenty miles nearer Philadelphia than the place of crossing it under their charter, when the first application for an injunction was made by the Camden and Amboy Company. I here call your attention to the answer which they made to this application for an injunction. I quote from the opinion of the chancellor:

"The Raritan and Delaware Bay Railroad Company and the President and other officers of the company, by their answer, among other things, admit that at the time of obtaining from the Legislature their act of incorporation no person interested in the application for said road had any intention of constructing a railroad to transport passengers or merchandise between the cities of New York and Philadelphia." \* \* \* \*

"They deny that any agreement has been made, or is intended to be made, for the transportation of freight or passengers between the cities of New York and Philadelphia. They admit that they and the Camden and Atlantic Railroad Company have in view the construction and perfecting, by means of their respective railroads and a convenient connection between them, of a continuous and convenient line of railway communication across New Jersey, from the city of Camden to Port Monmouth, but they deny that they or any of them have in view the continuation of said line, at either end thereof by steamboat transportation to the cities of New York and Philadelphia, for the purpose of using the same for the transportation of passengers or merchandise in a manner which will violate any contract between the State and the complainants, or any provisions of the acts of the Legislature referred to in the complainants bill. They also deny that any contract or arrangement made by them is calculated or intended to form a continuous line of railway communication between the said cities, to compete in business with the busi-

ness of the complainants, contrary to their vested rights. They admit that it is possible, if not prohibited by law, that a line of communication by railroad and steamboat between the cities of New York and Philadelphia might be opened, but they say that their railroad is not public highway and cannot so be used without their concurrence and consent, and as they have made no arrangement whatsoever so to use the same, and do not intend any unlawful use of their road, such use, if unlawful, cannot be made, and if attempted, can be restrained by the courts. They also deny that they intend in any way to violate the chartered rights of the complainants, or that they intend during their existence to violate any of the alleged exclusive privileges of the complainants. And the defendants, all and each of them, declare that it is not and never has been their intention, by the construction of their railroad or its connections with the Camden and Atlantic railroad, or otherwise, to interfere with the complainants' chartered rights by competing with the railroad of the complainants by the transportation of passengers or merchandise between the cities of Philadelphia and New York, or otherwise."

The injunction was not granted, because by the answer of the defendants it did not appear that they had interfered, or intended in the future to interfere, with the exclusive privileges of the complainants, to wit, of transporting passengers and freight between the two cities. The fact that they had deviated from their chartered rights and were actually in the process of connecting their two lines of road, was not sufficient to authorize the chancellor to grant the injunction prayed for by the Camden and Amboy Company. The determined purpose of the Raritan and Delaware Bay Company to accomplish their object in utter disregard of the established rights of others, can be seen in no way more clearly than by noting their course immediately after the first hearing before the chancellor, where they had, under oath, disavowed any intention of interfering with the franchises of the Camden and Amboy Company:

"The application for a preliminary injunction to restrain the connection between the defendants' roads was denied on the 12th of August, 1862. The junction was formed and the roads thus united went into operation in September, 1862. The route is continued by means of steamboats between Port Monmouth and New York and between Camden and Philadelphia, which run in connection with the road so as to form a complete and uninterrupted line of travel and transportation over the roads between the cities of New York and Philadelphia. In eleven months, commencing with November, 1862, there was transported over these roads between Camden and Port Monmouth, and mainly between the cities of New York and Philadelphia, fourteen thousand tons of freight and seventeen thousand six hundred passengers. A small portion of the freight consisted of munitions of war, and nearly the whole of the passengers were soldiers, carried over the road for the United States Government. The transporting of merchandise from city to city is carried on by the agency of transportation companies, who have established offices for the reception and delivery of freight in each city, from which offices goods are regularly shipped over the entire route. Daily regular freight lines are thus established. The route is advertised—the attention of merchants and shippers is directed to it as a new and expeditious route, and their patronage solicited. The business of transporting way freight and passengers is conducted by the railroad companies in their own names."

It was in proof that the Raritan and Delaware Bay and the Camden and Atlantic Companies had made contracts with each other for a continuous line between the two cities, by boats crossing the Delaware river and running between Raritan bay and New York city. The chancellor says of these contracts:

"Taken in connection with the other evidence in the cause, they are obviously designed to promote the formation of a through route for the transportation of merchandise between the cities of New York and Philadelphia. Neither company has a right to permit its road to be used for such purpose. They cannot effect by combination what neither can do lawfully. Nor can they effect by the agency of others what they may not do themselves. The companies control not only the railroad line across the State, but the boats at either terminus upon the Raritan bay and the Delaware. The Camden and Atlantic Company are under stipulation to furnish boats upon the Delaware. The boats



upon the Raritan bay are owned in whole or in part by officers of the company, and are used in connection with the regular daily lines upon the road."

Upon the second hearing before the chancellor an injunction was granted restraining the two companies from competing with the Camden and Amboy Company in the transportation of merchandise and passengers between the cities of Philadelphia and New York.

Under this state of the case the friends of the Raritan and Delaware Bay and Camden and Atlantic Companies come here and ask Congress to do—what? To make appropriation in aid of their road? No. To build a road through New Jersey through Federal agency? No. They ask you to authorize them to do jointly what no one pretends can be done by either of the companies separately. They ask you to override the Legislature of New Jersey, the solemn adjudication of her courts, and the chartered rights of her citizens. They ask you, in short, to legalize illegality.

Upon what grounds do they ask for this extraordinary interference of Congress? Let us examine them. Is it upon the ground that Congress has the right to establish post roads? No. The Constitution confers this power expressly on Congress, and therefore this cannot be the reason of the proposed legislation. Is it upon the ground of military necessity? If so, my answer is that under laws now on the statute-books the President has the power to use these or any other railroads in the country if the military necessity to do so exists. By an act approved January 31, 1863, it is enacted:

"That the President of the United States, when in his judgment the public safety may require it, be, and he is hereby, authorized to take possession of any or all the railroad lines of the United States, so that they shall be considered *post roads*, and *part of the military establishment* of the United States."

This power then exists, and hence there can be no necessity of further legislation upon this ground.

In considering the bill before us, therefore, we are compelled to abandon the "military necessity" point, upon which some seem to have relied, and must look for some other necessity for the bill, and some other power in Congress to pass it. If these roads were actually needed for military purposes, and there were no law authorizing the Government to use them, I would say, God speed this bill, for I would have all possible facilities granted for military purposes; but, as I have just shown, no such necessity exists for our action.

The friends of this measure are therefore compelled to find some other provision in the Constitution by which to justify themselves in granting the request of the petitioners, and it is claimed that the power is contained in that section of the Constitution which says that "Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes," and it is upon that point that I address myself to the gentleman from New York, [Mr. DAVIS.] I listened with the closest attention to his remarks, first, because I consider him an able lawyer, and secondly, because I have the highest regard for him personally



and believe that the views he entertains are honest views, and that he would not advocate anything which he did not believe the interests of the country required. But his whole fallacy, I think, can be traced to a misconstruction of the true meaning of the Constitution, which says that Congress shall have power to "regulate commerce between the States." With all due deference to him, and others whose opinions may now differ from mine, I contend that no such construction of the words "to regulate commerce between the States" has ever been placed upon them until the present time. Such was not the meaning attached to them by the framers of the Constitution, as appears by the action of the First Congress in the year 1789, composed in part of men who aided in framing it, and such has not been the construction given to it by the distinguished statesmen of our country, such as Jefferson, Madison, Monroe, Jackson, and others, nor have our jurists or our courts ever given the interpretation now contended for. For want of time it will be impossible for me to read many authorities, which I would like to do. Without undertaking to comment upon it, I will read a portion of the message of Mr. Monroe, returning the bill "for the preservation and repair of the Cumberland road," with his veto, to the House of Representatives, in which it originated. He says:

"A power to establish turnpikes with gates and tolls and to enforce the collection of tolls by penalties, implies a power to adopt and execute a complete system of internal improvement, a right to impose duties to be paid by all persons passing a certain road, and on horses and carriages as is done by this bill, involves the right to take the land from the proprietor, on a valuation, and to pass laws for the protection of the road from injuries; and if it exists as to one road, it exists as to any other, and to as many roads as Congress may think proper to establish. A right to legislate for one of these purposes is a right to legislate for the others. It is a complete right of jurisdiction and sovereignty for all the purposes of internal improvement, and not merely the right of applying money, under the power vested in Congress to make appropriations under which power, with the consent of the States through which this road passes, the work was originally commenced and has been so far executed. I am of opinion that Congress do not possess this power—that the States individually cannot grant it; for although they may assent to the appropriation of money within their limits for such purposes, they can grant no power of jurisdiction or sovereignty by special compacts with the United States. This power can be granted only by an amendment to the Constitution, and in the mode prescribed by it.

"The substance of what has been urged on this subject may be expressed in a few words. My idea is, that Congress have an unlimited power to raise money; and that in its appropriation they have a discretionary power, restricted only by the duty to appropriate it to purposes of common defense, and of general, not local, national, not State benefit."

Again he says:

"The Territory contemplated by the Constitution belongs to each State in its separate character, and not to the United States in their aggregate character."

And upon another occasion he used the following language:

"For every act requiring any legislative sanction whatever, the State authority must be relied on. The condemnation of lands, the establishment of tolls, laws for the protection of the work when finished, must be authorized by the State."

Again:

"In the case of the Cumberland road, passing through Maryland, Pennsylvania, and Virginia, it was thought necessary to bring the subject before their respective Legislatures to obtain their sanction, which was granted by each State, by a legislative act approving the route, and providing for the purchase and condemnation of the land. In this instance the United States have exercised no act of jurisdiction or sovereignty within either of the States by passing acts for the protection of the road, or to raise a revenue from it by the

establishment of turnpikes and tolls, or any other act founded on the principle of jurisdiction or right. Whatever they have done has, on the contrary, been founded on the opposite principle—on the voluntary and unqualified admission that the sovereignty belonged to the State, and not to the United States, and that they could perform no act which could tend to weaken the power of the State or to assume any to themselves.”

Similar views were expressed by Mr. Jefferson, in his last annual message in 1808, and on other occasions. In Mr. Madison’s veto of the bill to set apart and pledge certain funds for internal improvements, he says, among other things :

“The power to regulate commerce among the several States cannot include a power to construct roads and canals and to improve the navigation of water-courses, in order to facilitate, promote, and secure such a commerce, without a latitude of construction, departing from the ordinary import of terms, strengthened by the known inconveniences which doubtless led to the grant of this remedial power of Congress.”

Seeing that no such power existed in Congress, he suggested the only possible remedy, an amendment of the Constitution.

General Jackson said “such a power had never been exercised in a single instance.”

I quote from the opinion of Mr. Justice Grier in the Newark Bridge case. He says :

“Congress has the exclusive power to regulate commerce, but that has never been construed to include the means by which commerce is carried on within a State. Canals, turnpikes, bridges, and railroads are as necessary to the commerce between and through the several States as rivers. Yet Congress has never pretended to regulate them. When a city is made a port of entry, Congress does not thereby assume to regulate its harbor, or detract from the sovereign rights before exercised by each State over her own public rivers. Congress may establish post offices and post roads ; but this does not affect or control the absolute power of the State over highways and bridges.”

And to the point that roads, bridges, and other internal improvements belong to the States, I cite the following authorities : 9 Wheaton, 203 *Gibbons vs. Ogden*, 11 Peters, 133 *New York vs. Milner*, 14 Howard, 574 *Veasie vs. Moor*, 20 Howard, 92, 93, 94, *Withers vs. Buckley*.

But, admit for the sake of the argument, that Congress has the power under the Constitution to pass this bill, it is admitted by the gentleman from New York [Mr. Davis] that it should be exercised only in cases of the clearest necessity. Now, what is the necessity in this case? I wish to call the attention of the House to some facts bearing upon this point ; and in order to do this we must have an inside view of the railroad system now in operation in the State of New Jersey. Judging from mere outside rumors, I should have supposed that, by some means or other, New Jersey had become sacred ground, on which no citizen of another State could place his foot, except under high penalties. One might have supposed that it was a celestial empire on a small scale, into which no outside barbarian could be permitted to enter. But there are some facts pertaining to the system of internal improvements in New Jersey which I think the House ought to know. I call attention to a few of them.

I undertake to say that the State of New Jersey has expended more money for railroads than any State lying between Washington and the Canada line, except New York, Massachusetts, and Pennsylvania, and that the facilities for transit across it are equal to those of any other State.

The following table, which I have prepared from the census report of 1860, shows the number of miles of railroad built and the money expended therefor in the States referred to :

	<i>Miles.</i>	<i>Cost.</i>
Maine.....	472	\$ 16,576,385
New Hampshire.....	656	23,268,659
Vermont.....	556	23,336,215
Massachusetts.....	1,272	58,882,328
Rhode Island.....	107	4,318,827
Connecticut.....	603	21,984,100
New York.....	2,701	131,320,542
New Jersey.....	559	28,997,032
Delaware.....	136	4,351,789
Maryland.....	380	21,387,157

From which it appears that in 1860 New Jersey had expended more money for railroads than either of the States mentioned, except New York and Massachusetts, and during the last decade the per centage of increase of population in New Jersey was greater than in either of the above named States.

Let us now examine for a moment the charge made by the gentleman from Ohio, [Mr. Garfield,] that New Jersey interferes with the free passage of commerce and travel across her territory. His position has no foundation in fact. New York city has a passage across New Jersey by eight railroads radiating in all directions, as follows: the Northern Railroad from Jersey City to Piermont; the Erie Railroad from Jersey City to State line, and continued thence; the Morris and Essex road from Hoboken to Hackettstown, and now completing to the Delaware; the New York Central, and Delaware, Lackawanna, and Western from Jersey City to Scranton; the New Jersey Railroad and Trenton road from Jersey City to Philadelphia; the Camden and Amboy Railroad from New York to Philadelphia; the Raritan and Delaware Bay Road, chartered to run from New York to Cape May, along the Atlantic coast. This system of roads connects New York with every part of the country lying west of that city. With Philadelphia it has two railroad connections besides the Delaware and Raritan canal, which bears steam propellers of four hundred tons burden, and with the coal region of Pennsylvania it has two railroad connections besides the Morris canal extending from Jersey City to Easton.

Then Philadelphia has transit across New Jersey by the West Jersey Railroad, from Camden to Cape May, with branches to Salem and Bridgeton, embracing all South Jersey, the Camden and Atlantic Railroad from Camden to the Atlantic coast, the two Railroads to New York, and the Belvidere and Delaware Railroad, which, with the roads to Trenton, connect the city with the entire Delaware river to Belvidere, and a connection is now forming at that place with the Delaware, Lackawanna and Western Railroad leading to Scranton and northeastern Pennsylvania.

With such liberal provision for the commercial necessities of these two great cities, by railroad lines reaching in every direction



across the State, it cannot be said with truth that New Jersey interferes with the free passage of commerce or travel.

And then the most important of these connections were earlier by many years than any other railroad connections which those cities had with other portions of the country. The Camden and Amboy Railroad was completed so as to form a line in connection with steamers from New York to Philadelphia as early as December, 1832. The line by Trenton and Jersey City was completed December, 1838. The Delaware and Raritan canal in April, 1835. No other railroad led from or to those cities for ten years and more after these dates. The New Haven, Harlem, and Hudson River roads were not in operation till 1848 or 1849. The Erie not till 1850. No other railroad led out of Philadelphia (except perhaps the Philadelphia and Wilmington road) till 1844 or 1846.

The encouragement given by New Jersey to her capitalists by securing to them for a definite period freedom from competition did not obstruct but promoted railroad facilities.

But it is said that *the local fares are less*, the company discriminating in favor of the citizens of New Jersey. The local fares in the vicinity of New York at one end of the line, and of Philadelphia at the other end, are less than three cents per mile, it is true. The object of this is to promote the growth of the towns and villages near those cities by inducing men engaged in daily business in the cities to settle on the line of the road, and thereby create a daily travel, commonly called excursion travel. This is the policy of all railroads. This policy leads them to sell annual and quarterly commutation tickets. Certainly those cities ought not to complain of this; nor ought any one to complain of it. It is the true policy of all railroads, and results in great good to the community. The daily travel into and out of New York by persons doing business there while living in the vicinity within a range of twenty or thirty miles is enormous. It is a great public benefit. It promotes the health of the families to live in the country towns, and enables them to live at a much cheaper rate; and the railroads profit by it at even low rates of fare.

Again, it is said that according to the report of General Meigs *the railroads failed, in January last, when the Potomac was blockaded by ice, to forward necessary forage for the Army*. The real difficulty was not with the railroads, but with the Government, in not returning the transportation cars of the company. Some of them were sent south of the Potomac; some of them were detained here. Had the railroad company had their cars they would have transported all the forage delivered to them. (See the dispatches annexed to the report, showing that the difficulty was want of cars.) When the Potomac was blockaded by the enemy in 1861-62 the railroads carried all the army supplies without interfering with their regular business. (See the report.) Their rolling stock is no doubt much reduced by destruction and appropriation to Government service. Every effort is made to renew it; but the scarcity of labor in that branch of industry renders it almost

impossible to procure new cars. Had the cars been ready at Philadelphia to receive the forage it would have been transported across the Delaware. The ice did not prevent it there. The Raritan and Delaware Bay Railroad would have had the same difficulty to encounter, if any existed. But no complaint at all is made that the New Jersey roads did not carry everything delivered to them. They did, in fact, carry everything as fast as delivered. The difficulty was at Philadelphia, and this side of Philadelphia, and it arose from the cars not being returned from Washington. And the obstruction, whatever it was, was a single instance in three years. The cold was almost unprecedented, not likely to occur soon again. It was soon relieved, showing its necessarily temporary character. With even the *small amount* of forage accumulated at Washington the Army supply was continued. Its failure was only apprehended.

The Quartermaster General's suggestion about an interior line of railroad, crossing on bridges above tide water, is met by the consideration that there are such lines already.

The Northern Central road, which is connected with the Washington Branch at Baltimore, extends from thence to Harrisburg and connects with the North, East, and West, Canandaigua, Elmira, New York and Pittsburg, by means of the New York Central, the Erie, the New Jersey Central, and the Pennsylvania Central railroads.

If the friends of the Raritan and Delaware Bay Railroad Company wish to have that road extended, if they have such patriotic feelings that they wish to connect New York with the middle States and the more remote South, I will tell them how they can do it without infringing on the rights of the Camden and Amboy Railroad Company. Under their charter they have a right to extend it along the shore, through Delaware and Maryland, and so on to Norfolk. In fact it was called at one time the Delaware Bay and Norfolk Air Line Railroad. They need not be shut out at Cape May. Let them go on and comply with the provisions of their charter, and extend it, if they please, further south.

The gentleman from Ohio [Mr. Garfield] said the other day that the chancellor of New Jersey had decided in the first place that the Raritan road was a legal structure from Camden to Port Monmouth, from the west to the east line of the State, and decided in the next place that no passengers or freight could be taken over that road from Pennsylvania to New York.

Now, in answer to that, I beg leave to say to the gentleman that the chancellor of New Jersey, as I understand him, never made any such decision. He decided not to grant the *first* injunction because the defendants came in and said in their answer that they never intended to compete with the Camden and Amboy road in carrying passengers and freight. There was no ground for proceeding against them. The fact that they were in the process of building their road on a line not authorized by their charter was not sufficient to authorize the chancellor to grant the injunction

